Supreme Court, U.S.
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No. 05

In the Supreme Court of the United States

SAMUEL RILEY, THOMAS SNYDER and MARK PIERSON,

Petitioners,

v.

ROD R. BLAGOJEVICH and ROGER WALKER, JR.,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The Seventh Circuit reversed the decisions of the District Courts in Riley v. Blagojevich and Mark Pierson v. Blagojevich denying the defense of qualified immunity at the motion for judgment on the pleadings stage of the proceedings and affirmed the decision of the District Court in Snyder v. Blagojevich granting the defense of qualified immunity after converting a motion for judgment on the pleadings to a motion for summary judgment. The claims at issue challenged the patronage and retaliatory terminations of State of Illinois, Department of Corrections low level professional, technical and administrative employees without policy making or discretionary decision making authority that occupied positions with well defined and limited objectives that were constrained by law and supervisor approval. Samuel Riley, Thomas Snyder and Mark Pierson (collectively "Petitioners") assert that political affiliation was not an appropriate or reasonable requirement for the effective performance of their duties and responsibilities and that each spoke out on matters of public concern, including violations of the law by government officials, misuse of taxpayer funds and significant public safety issues all unrelated to their job duties or their political viewpoints. In holding that the claims be dismissed the Seventh Circuit's decision directly conflicts with the Federal Rules of Civil Procedure, the Federal Rules of Appellate Procedure, previous holdings of the Supreme Court of the United States, previous holdings of the Seventh Circuit, as well as, with holdings of the First, Second, Third, Fourth, Sixth, Eighth, Ninth, Tenth and Eleventh Circuits

Three (3) questions are presented.

1. Did the Seventh Circuit err when it failed to conduct any analysis, including the analysis required by Pickering v. Board

of Education, 391 U.S. 563 (1968), when it entered judgment in favor of the Governor Rod Blagojevich and Illinois Department of Corrections Director Roger Walker, Jr. (collectively "Respondents") in each case on First Amendment free speech retaliation claims asserted by Petitioners, by simply finding that each claim was "merely a restatement of their claim that political affiliation is a forbidden criteria" for the positions at issue ?

2. Did the Seventh Circuit err by expanding the narrow exception to the constitutional prohibition against termination of public employees reserved for high level policymaking positions established by Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990), Branti v. Finkel, 445 U.S. 507 (1980) and Elrod v. Burns, 427 U.S. 347 (1976) and applying a new and broad safe harbor standard to low level state employees and when it relied exclusively on disputed job description documents presented by Respondents ?

3. Did the Seventh Circuit err when it entered judgment in favor of Respondents in each case based on issues, arguments or grounds for appeal presented for the first time on appeal and based on matters outside of the pleadings, including stipulations, affidavits, purportedly public records and citations to Illinois law without first allowing each Petitioner a reasonable opportunity to present all material pertinent to the issues ?

LIST OF PARTIES

The Petitioners were the plaintiffs in the District Court cases and were individual employees of the State of Illinois, Department of Corrections Samuel Riley, Thomas Snyder and Mark Pierson. The Respondents were the defendants in the District Court cases and were Rod R. Blagojevich, Governor of the State of Illinois and Roger Walker, Jr., Director of the Illinois Department of Corrections.

CORPORATE DISCLOSURE STATEMENT

Samuel Riley, Thomas Snyder and Mark Pierson are all individuals.

TABLE OF CONTENTS

QUESTIONS PRESENTED i

LIST OF PARTIES iii

CORPORATE DISCLOSURE STATEMENT iii

TABLE OF CONTENTS iv

TABLE OF CITED AUTHORITIES viii

OPINIONS BELOW 1

STATEMENT OF JURISDICTION 1

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 2

STATEMENT OF THE CASE 3

REASONS FOR ALLOWANCE OF THE WRIT 10

I. Review is warranted to resolve conflicts regarding the analysis required by Pickering v. Board of Education 11

II. Review is warranted to resolve conflicts regarding the application of the analysis required after the decisions in Rutan, Branti and Elrod. 15

A. Exclusively applying the "policymaker" analysis is not the proper analysis. 15

B. The Seventh Circuit decision is an inappropriate expansion of the Branti exception 18

C. Precedent does not support exclusive reliance on a job description document 21

D. Prison employees have long been protected from patronage dismissals 23

III. Review is warranted to resolve conflicts regarding judgments based on issues, arguments or grounds for appeal presented for the first time on appeal . . 24

IV. Review is warranted to resolve a conflict regarding the propriety of judgments prior to trial under Federal Rules of Civil Procedure 12(c) and 56 . . 27

A. There is a conflict among the Circuits regarding consideration of purportedly public records under Rules 12(c) and 56 28

B. There is a conflict within the Seventh Circuit regarding consideration of stipulations and affidavits under Rule 12(c) and 56 and providing a reasonable opportunity to present pertinent materials 29

CONCLUSION 30

APPENDIX

Appendix A

Petition for Rehearing *En Banc* in Riley v. Blagojevich and Snyder v. Blagojevich decided and filed November 18, 2005 . . . . . 1a

Appendix B

Opinion of the United States Court of Appeals for the Seventh Circuit in the matters of Riley v. Blagojevich and Snyder v. Blagojevich decided and filed September 23, 2005 . . . . . 3a

Appendix C

Memorandum Opinion and Order in Riley v. Blagojevich decided July 29, 2004, filed July 30, 2004 . . . . . 20a

Appendix D

Minute Order in Riley v. Blagojevich decided July 29, 2004, filed July 29, 2004 . . . . . 34a

Appendix E

Memorandum Opinion and Order in Snyder v. Blagojevich decided August 20, 2004 filed August 23, 2004 . . . . . 37a

Appendix F

Judgment in a Civil Case in Snyder v. Blagojevich decided and filed August 20, 2004 . . . . . 56a

Appendix G

Memorandum Order in Snyder v. Blagojevich decided and filed June 4, 2004 . . . . . 59a

Appendix H

Opinion of the United States Court of Appeals for the Seventh Circuit in the matter of Mark Pierson v. Blagojevich decided and filed December 20, 2005, published February 10, 2006 . . . . . 63a

Appendix I

Memorandum Opinion in Mark Pierson v. Blagojevich decided and filed June 24, 2005 . . . . . 66a

Appendix J

Constitutional and Statutory Provisions 81a

TABLE OF CITED AUTHORITIES

Cases

Akers v. Caperton,
998 F.2d 220 (4th Cir. 1993) 18, 21

Alexander v. City of Chicago,
994 F.2d 333 (7th Cir. 1993) 29

Assaf v. Fields, 178 F.3d 170 (3rd Cir. 1999) 18, 21

Baker v. Hadley, 167 F.3d 1014 (6th Cir. 1999) 21

Barker v. City of Del City,
215 F.3d 1134 (10th Cir. 2000) 13

Biggs v. Best, Best & Krieger,
189 F.3d 989 (9th Cir. 1999) 12

Bonds v. Milwaukee County,
207 F.3d 969 (7th Cir. 2000) 14

Branti v. Finkel, 445 U.S. 507 (1980) 16, 17, 18

Celotex Corp. v. Catrett, 477 U.S. 317 (1986) 28

Curinga v. City of Clairton,
357 F.3d 305 (3rd Cir. 2004) 13

Dempsey v. Atchison, Topeka and Santa Fe Railway Co.,
16 F.3d 832 (7th Cir. 1994) 29

Dickeson v. Quarberg,
844 F.2d 1435 (10th Cir. 1988) 17, 24

Diruzza v. County of Tehama,
206 F.3d 1304 (9th Cir. 2000) 23

Elrod v. Burns, 427 U.S. 347 (1976) 15, 16, 18, 22

Farries v. Stanadyne/Chicago Div.,
832 F.2d 374 (7th Cir. 1987) 30

Fazio v. City and County of San Francisco,
125 F.3d 1328 (9th Cir. 1997) 12

Feliciano v. Gaztambide,
836 F.2d 1 (1st Cir. 1987) 21

Flenner v. Sheahan,
107 F.3d 459 (7th Cir. 1997) 23

Florida Lime & Avocado Growers, Inc. v. Paul,
373 U.S. 132 (1963) 25

Flynn v. City of Boston,
140 F.3d 42 (1st Cir. 1998) 14

Fountain v. Filson, 336 U.S. 681 (1949) 24, 25

Friedman v. Washburn Co.,
145 F.2d 715 (7th Cir. 1944) 29

Hale v. State of New York Office of Children and
Family Services, 219 F.3d 61 (2nd Cir. 2000) . . 13, 23

Hinshaw v. Smith, Nos. 05 1205, 05 1217, 05 1218, 2006
U.S. App. LEXIS 2240 (8th Cir. January 30, 2006) . 13

Hormel v. Helvering, 312 U.S. 552 (1941) 24, 25

Hughes v. Tobacco Institute, Inc.,
78 F.3d 417 (5th Cir. 2001) 27

Jantzen v. Hawkins,
188 F.3d 1247 (10th Cir. 1999) 13

Jones v. Dodson, 727 F.2d 1329 (4th Cir. 1984) 17

Kiddy-Brown v. Blagojevich,
408 F.3d 346 (7th Cir. 2005) 6, 9, 23

Lewis v. Cowen, 165 F.3d 154 (2nd Cir. 1999) 13

Lujan v. National Wildlife Federation,
497 U.S. 871 (1990) 28

Marshall v. Porter County Plan Commission,
32 F.3d 1215 (7th Cir. 1994) 14

McEvoy v. Spencer, 124 F.3d 92 (2nd Cir. 1997) 13

Melzer v. Board of Education of the City School
District of the City of New York,
336 F.3d 185 (2nd Cir. 2003) 13

Milazzo v. O'Connell,
108 F.3d 129 (7th Cir. 1997) 22, 23

National Fidelity Life Insurance Co. v. Karaganis,
811 F.2d 357 (7th Cir. 1987) 29

Northern Indiana Gun & Outdoor Shows, Inc. v.
City of South Bend,
163 F.3d 449 (7th Cir. 1998) 27, 29

O'Hare Truck Service, Inc. v. City of Northlake,
518 U.S. 712 (1996) 11, 12, 13, 14

Ortiz-Pinero v. Rivera-Arroyo,
84 F.3d 7 (1st Cir. 1996) 21

Padilla-Garcia v. Rodriguez,
212 F.3d 69 (1st Cir. 2000) 14

Parrish v. Nikolits,
86 F.3d 1088 (11th Cir. 1996) 17

Pension Benefit Guaranty Corp. v.
White Consolidated Industries, Inc.,
998 F.2d 1192 (3rd Cir. 1993) 28

Pickering v. Board of Education,
391 U.S. 563 (1968) 11-14

Ribando v. United Airlines, Inc.,
200 F.3d 507 (7th Cir. 1999) 30

R.J.R. Services v. Aetna Casualty and Surety Co.,
895 F.2d 279 (7th Cir. 1988) 30

Roldan-Plumey v. Cerezo-Suarez,
115 F.3d 58 (1st Cir. 1997) 21

Romero v. International Terminal Operating Co.,
358 U.S. 354 (1959) 28

Rose v. Stephens, 291 F.3d 917 (6th Cir. 2002) 14

Rutan v. Republican Party of Illinois,
497 U.S. 62 (1990) 15-18